

Office of Travel Counsel

OGC Has Reviewed

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21 September 1956

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Chief, FE

ATTN: General Counsel

Administrative/Legal

Request for legal opinion - Applicable Air and Rail Per  
Diem Rate for Travel [redacted]

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1. An official Office of General Counsel ruling is requested on the maximum per diem rate which may be authorized for travel by rail or air [redacted] requested a Headquarters' interpretation as to whether or not the \$6.00 rate provided in SGTB 6.2c was applicable to travel by train or air [redacted]. We were advised by [redacted] that the new provision made such reduced rate mandatory. This dispatch may be considered as an appeal from that decision because we feel that the language of the new regulation, taken in conjunction with the intent of the old, warrants a formal ruling on the point.

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2. The Standardized Government Travel Regulations as amended, dated August 1, 1952 provided in paragraph 45:

"For travel by commercial aircraft involving area outside the continental United States with different maximum per diem rates, including stopovers involving less than 6 hours, a maximum rate of \$6 is prescribed."

The revised Standardized Government Travel Regulations effective August 1, 1956 provides in Section 6.2c:

"A per diem rate of \$6 is prescribed for such travel by airplane, train or boat (regardless of whether commercial or Government-owned) enroute to or from a locality beyond the limits of the continental United States, or between such localities, including stopovers of less than 6 hours."

3. The intent of the cited provision in the August 1, 1952 version of the SGTB is stated in 30 Comp. Gen. 78 to be:

"The above quoted provisions of paragraph 45 of the Standardized Government Travel Regulations were intended to limit to \$6 the per diem payable for travel in areas for which different per diem rates have been established." (Underlining mine)

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Page 2

The only substantive difference in the language of the two regulations which is important for this consideration is the inclusion in the new regulation of the application of the \$6.00 rate to train or boat travel and the phrase "or between such localities." While we do not know here what the intended changes were supposed to do, it is certainly logical to assume that the intent was to extend the original intent, cited above, to travel by boat and rail and, with respect to the phrase "or between such localities," to clarify any ambiguity which may have existed in regard to travel which did not commence from, or terminate in, the limits of the continental United States but was performed in "areas where different per diem rates had been established."

4. Although 35 Comp. Gen. 78 does not say so, we believe that an additional intent of providing for a lower per diem rate while in air travel (and now while in train or boat travel) is that the traveler's subsistence expenses in such travel are usually lower because meals and/or sleeping facilities are frequently included in the price of the ticket or are otherwise separately reimbursable - as in the case of Pullmans.

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5. Factually, here is what such a ruling does to us on [redacted] particularly when connected with the 6 hour stopover rule:

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Page 3

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for three quarters of a day receives per diem, if we apply the new provision as we feel that it should not be applied, at the rate of \$6.00 for a total of \$4.50. The fourth quarter of the 24 hour period would be paid at \$2.50, making a total per diem of \$7.00 instead of \$10.00.

We do not believe that the regulation was intended to act in such a manner or that it is necessary to construe it to effect such a result. However, inasmuch as this is a problem applicable to the Government at large, it is requested that a Headquarters' Office of General Counsel ruling be obtained.

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